

**Lawrence R. DiGiansante**

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July 22, 2014

**By-ECF**

Honorable Nicholas G. Garaufis  
United States District Judge  
United States Courthouse  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Sentencing of James Bernardone  
12 CR 264 (NGG)

Dear Judge Garaufis:

I submit this letter on behalf of my client, Mr. James Bernardone, who is scheduled to be sentenced before Your Honor on August 5, 2014 at 5 p.m. Please also find letters in support of Mr. Bernardone from various individuals whose lives have been positively affected by Mr. Bernardone.

Mr. Bernardone is 47 years old and his only previous criminal conviction was in 2007 for the Class U Misdemeanor of Driving While Intoxicated in Bronx County which stemmed from a May 2005 arrest.

**THE PLEA AGREEMENT**

After extensive negotiations with the government, Mr. Bernardone pled guilty to Count One of the indictment and his criminal activity is encompassed in Racketeering Act 2 and Racketeering Act 8. The parties' estimate of the advisory U.S. Sentencing Guidelines in their Plea Agreement is as follows. A base offense level of 18, plus 2 levels for Multiple Racketeering Acts, minus 3 levels for acceptance of responsibility minus 2 levels for a global resolution. The parties further agreed that Mr. Bernardone was in Criminal History Category 2. This would place him in the 21-27 month advisory prison range.

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**OBJECTIONS TO THE PSR**

Paragraphs 2 and 3 – I respectfully object to these paragraphs and submit that the offense conduct involved the implied threat of economic harm.

Paragraph 4 – I respectfully object to this paragraph as the plea agreement of the parties accurately reflects Mr. Bernardone's offense conduct.

Paragraphs 25, 34, 40 and 46 – I respectfully object to these paragraphs and the two point enhancement as the agreement of the parties accurately reflects Mr. Bernardone's offense conduct.

Paragraphs 4, 25, 37, 43 and 49 – I respectfully object to the 3 level enhancement for a managerial role as the plea agreement of the parties accurately reflects Mr. Bernardone's offense conduct in the instant indictment.

Paragraph 52 – I respectfully object to this paragraph and submit that the Multiple Racketeering Act analysis of the parties accurately reflects the offense conduct.

Paragraph 65 – I respectfully object to this paragraph as a Criminal History Category 3 overstates Mr. Bernardone's record in that he has one prior violation and one prior misdemeanor conviction for alcohol related driving offenses. I submit that the Criminal History Category of 2 reflected in the Plea Agreement accurately represents Mr. Bernardone's Criminal History.

Paragraph 104 – I respectfully object to this paragraph and submit that the Guideline estimates of the parties be adopted by the Court.

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### **3553 (a) FACTORS**

James John Bernardone is 47 years old and he was born from the marital union of Louis Vincent Bernardone and Lorraine Bernardone. Mr. Bernardone's sister Elizabeth and his parents have been a constant presence in his life and they have remained supportive during this difficult chapter of his life. Mr. Bernardone graduated from St. Helena Commercial High School in the Bronx and he later received his Bachelor of Arts in Labor Studies from the National Labor College, George Meany Center for Labor Studies, in June of 2002.

Mr. Bernardone has been continually employed in various Labor organizations throughout his adult life and due to his recent plea he resigned his position with Local 124 in Scarsdale, New York.

Mr. Bernardone has been dealing with a number of health issues for an extended period of time. He has a history of obstructive sleep apnea, seizure disorder, hemophilia, hyperlipidemia and low blood pressure. He has also been forced to cope with the pain and discomfort of the metal bars which have been surgically implanted in his neck, back and shoulders. Mr. Bernardone has also been treating with a psychotherapist and psychiatrist in an effort to control a diagnosis of major depression and anxiety. Mr. Bernardone's family and Dr. Herbert Abellard both urge a treatment regimen for substance abuse management. While Mr. Bernardone is prescribed pain medication for his work related injuries, he has, at times, over medicated during severe episodes of depression and anxiety.

During the course of his life, Mr. Bernardone has consistently reached out to individuals who have found themselves in desperate need of assistance. He has done so when there is no benefit to himself other than knowledge that he has made another's life more bearable. Michael and Dawn Grossman attest to the dramatic impact Mr. Bernardone had on their and their son Michael's life in the correspondence attached to this submission. Certainly this intervention was one of the more dramatic differences Mr. Bernardone made in someone's life but there are many more situations which occur on an everyday basis that are too numerous

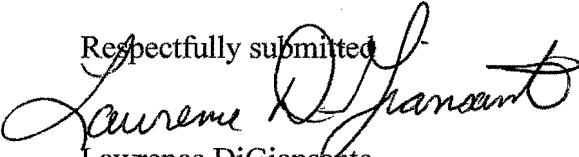
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to detail. The testimonial letters from family and friends were provided to give Your Honor a sampling of the positive influence Mr. Bernardone has had on so many people.

For all the foregoing reasons, I am respectfully requesting that Your Honor sentence Mr. Bernardone to the low end of the Guideline Range which was agreed to by the parties in the plea agreement. I submit this to be a fair sentence when considering Title 18 USC 3353 (a) and Mr. Bernardone's productive role in society.

Respectfully submitted



Lawrence DiGiansante

LD:rb  
Encl

Michael & Dawn Grossman  
1913 Fowler Avenue  
Bronx, New York 10462

November 8, 2013

The Honorable Judge Guarafis:

This letter is written with regard to James Bernardone. I, Michael Grossman, have known James for over twenty years.

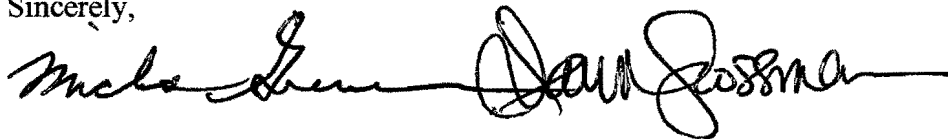
Eighteen years ago our son Michael was born with a Craniofacial Anomaly – craniosynostosis a condition in which the sutures (soft spots) in the skull of an infant close too early, causing problems with normal brain and skull growth. Premature closure of the sutures may also cause the pressure inside of the head to increase and the skull or facial bones to change from a normal, symmetrical appearance. We were devastated by this news. The doctors told us that our son would have to have a surgery that would last more than seven hours where they would cut open his scalp from ear to ear, take out his skull cut it into pieces and put it back. Without this surgery our son would face horrible facial disfigurement. The surgery needed to be done within a specific time frame in order for it to be beneficial.

We planned the surgery for when our baby was a little more than six months old. The doctor put all the paperwork in with our insurance company and to our horror they deemed the surgery “experimental”! We did not know what to do. We did not know where to turn.

Out of nowhere our “guardian angel” James Bernardone appears to help. He helped raise the over \$150,000 to get our son the surgery he so desperately needed. James was a Godsend to us. When no one else cared, he was there. Today our son is eighteen years old, a college freshman and thriving due in part to Jamie’s intervention.

We wholeheartedly believe James is a good, caring and compassionate man. We humbly ask that you do not alter the direction of his life. Thank you.

Sincerely,

The block contains two handwritten signatures in black ink. The first signature on the left is 'Michael Grossman' and the second signature on the right is 'Dawn Grossman'. Both signatures are written in a cursive, flowing style.

Michael & Dawn Grossman

2002 Hobart Ave.  
Bronx, New York 10461

July 3, 2014

Character reference for:  
James Bernadone

The Honorable Judge Nicholas Garaufis,

I am writing this letter on behalf of my landlord James Bernadone. My name is Laurie Galmitz. I am a retired postal worker on disability. In the year and a half that I reside here I have become a friend of Mr. Bernadone. I think he has good moral character.

I see him daily, helping elderly cross the street or carry their bags. I have heard him ask if they are alright or hungry. He shows kindness to children, and all animals. He is a animal lover. He also checks on me if im alright or need any groceries. One day my dog was having a seizure, I didn't know what to do, so I called Mr Bernadone. He came over right away, He guided me and help calm me down. Mr Bernadone shows many acts of Kindness.

Most importantly he has helped my grand daughter Savannah. She is 19 yrs. old and has social anxiety. She rarely left the house. Mr Bernadone put up a pigeon coop, and asked if she would like to take care of the pigeons. Mr Bernadone taught her what to do, and she looks forward everyday going out to care for the pigeons. She also has talks with Mr. Bernadone almost everyday. Her doctor is so impressed with her improvement.

I believe Mr. Bernadone is a Stellar Person. I can honestly say I would be proud to have him as a son. My son is a US Marine for 19 years now. I feel sending him to prison will only expose him to bad influence.

I humbly ask you to give him the opportunity to set his life on track in the right direction.

Please feel free to call for any information needed.

Laurie Galmitz  
2002 Hobart Ave  
Bronx, New York 10461

July 3, 2014

Character reference:  
James Bernadone

The Honorable Judge Nicholas Garafio

at 347-317-8530

Thank you,

Yours Sincerely,  
Laurie Galmitz  
*Laurie Galmitz*  
2002 Hobart Ave  
Bronx, New York 10461  
347-317-8530



# Montefiore

THE UNIVERSITY HOSPITAL FOR  
ALBERT EINSTEIN COLLEGE OF MEDICINE

July 8, 2014

To Whom It May Concern:


Ms. Savannah Miller has been my patient for many years. She has social anxiety and agoraphobia.

For the past few years no treatment has helped. Recently since Mr. Bernardone has created a

Pigeon coup to help Savannah get over her fear to leave home and interact and go outside with people.

Mr. Bernardone has been very kind and caring to my patient. Please take this into consideration in his sentence.

Thank You,

A handwritten signature in black ink, appearing to read "Emilio Biagiotti".

Emilio Biagiotti, MD



*Duplicate*

Honorable Nicholas Garaufis  
United States District Judge  
United States District Court,  
District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

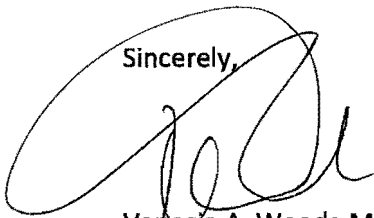
November 19, 2013

Honorable Garaufis,

I am a good friend of the mother of Mr. James Bernardone, Lorraine Bernardone. My eldest son Tyler suffered a traumatic brain injury from a motor vehicle accident in 2002 that left him severely cognitively/physically disabled. In 2004, my church held a fund raiser for Tyler which was held at a park located in the Bronx. The only thing I had to do was to get my son, to the location of the event. Tyler at the time was residing at the St. Mary's Hospital for Children Rehabilitation Center, located in Queens. I had no idea how I was to transport him to his benefit.

Pondering over the situation, I reached out to Lorraine. She discussed my dilemma with James who asked her to call me to tell me not to worry that he would see what he could do to get Tyler where he needed to be. I later received a call from Lorraine to inform me that James had secured an ambulette for Tyler's transport at no cost to me. Tyler was transported to and from his event safely. James, over the years has continued to be supportive to both of my son's. I will never forget the acts of kindness James extended to my family. He has a big warm heart and really takes the time to make a difference in the lives of others.

Sincerely,



Venesla A. Woods-Michie

Kelli-Ann Hall  
3262 Country Club Road  
Bronx, NY 10465

November 1, 2013

Judge Nicholas G. Garaufis  
United States Courthouse RM 1416 S  
225 Cadman Plaza East  
Brooklyn, NY 11201

Dear Judge Garaufis,

I am writing to you on behalf of my cousin James Bernardone. I hope that this letter will give you an idea of the true person he is.

Almost nine years ago, I was pregnant with my second child and was about to close on my house when my husband was informed by his employer that his position was being eliminated and that he could take another position at one fourth his pay. I called James and asked if there was anything available or anyone he knew who was looking to hire. James sent my husband on an interview with a private sanitation company and he was hired that day. My husband continues to work private sanitation.

After living in my house for three years we still had not painted inside. My husband was working long hours and we could not afford to hire someone to do it. James came over for Thanksgiving and said he was going to have someone paint for us and he would pay for it. He said he was sick of seeing white washed walls. Three days later painters showed up at my house and began to paint. I was so grateful for his kindness. A few weeks later I found out that he was behind on paying the bills for his own house and this was something he should not have done for me. This is the kind of things he does for people. He said it made him happy to see me happy over a little paint.

Six years ago my brother Kenneth was addicted to heroin. It was James who was able to talk him into coming to New York and going to rehabilitation. James put me in contact with someone who walked us through the process. Within two weeks he was on a plane to New York. James picked him up at the airport and cared for him for three days until the van from rehab picked him up. James stayed with him for 24 hours a day and took care of him as he was beginning withdrawal. I went to see him and to my horror I saw a skeleton who was near death. An image I will never forget. James hugged me and said "we got him Kel". I still cry over the image I saw that day. I know in my heart my brother would be dead had James not facilitated this intervention.

After nine months of rehab, James kept his promise to my brother and found him a job. He also gave him a small apartment at his house to live. He charges him a very small rent and takes a loss every month. He said he wanted him close to his family and wanted to give him a chance to become a responsible member of society again. He would never have been able to afford any other apartment. My brother continues to be clean, sober and working.

This past summer my nephew came to spend the summer with his father. My nephew has issues and takes medication. He has not had an easy life for a child of fourteen. James surprised him with an I Pad. He told my nephew "this is because you are loved, wanted and you are special". This may not seem like a big deal to most people, but to us the gesture was enormous. James made him feel so good about himself and he treats that I Pad like it was a brick of gold.

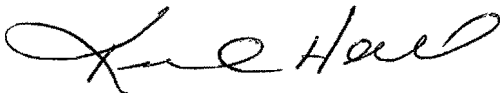
James is the type of person that will help anyone. He has helped many of his union members go to rehab so that they would not lose their jobs. He works hard to make sure that the members get fair pay and some benefits, when they had none. He has helped so many of our friends through the years. In the middle of all his own problems, he currently has been helping our childhood friend who has been in a bitter lawsuit with his father over a family business. He is trying to get them to come to an amicable agreement so that our friend does not lose everything he worked for.

When I was called to put my house up for James at the time of his arrest, I didn't have to think about it, the answer was YES.

I hope that this letter has given you a glimpse of James' character. I ask that whatever the decision is, you keep in mind all the good he has done for me and so many others.

I thank you for taking the time to read this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelli-Ann Hall". The signature is fluid and cursive, with the first name "Kelli" and last name "Hall" clearly distinguishable.

Kelli-Ann Hall

Honorable Nicholas Garaufis

November 5, 2014.

United States Courthouse,

225 Cadman Plaza

Brooklyn, NY 11201

Your Honor,

My name is Lorraine Bernardone and I am the mother of James Bernardone.

I am writing to you with a very heavy heart.

I ask that you take into consideration all the positive things my James has accomplished thru the years, in the event a decision has to be made by you, Your Honor.

James lives with constant pain from back and neck disc degeneration but still manages to do his job with a passion. He suffers from depression, a hereditary trait in our family, and still manages to get up every day, hold his head high and fight like hell for his members, their families and the rights they truly deserve. My son has seizure disorder induced by stress. Nevertheless, he keeps moving forward with drive and dedication to a union that he, himself built up from nothing. For those reasons alone, I couldn't be more proud of him. He has a wonderful sense of humor and I imagine this is a strong point that gets him through the tough times. He is resilient.

His interest in Unions and their values started at a young age and has led him to pursue a college degree and additional education to enhance his knowledge of the industry and be able to successfully fight for the rights of members under his jurisdiction. He cares about his workers and the wellbeing of their families. There was many a night where my son did not sleep on account of a member losing his job knowing that this person had a family to support. My son was on call 24 hours a day listening to needs and requests of his members- his mind constantly racing to figure out the next solution.

My son has a compassion for people that surpasses none I have ever seen, with expectations of nothing in return. He constantly puts others before himself when the need arises. There has been many times in which my son walked around with empty pockets, as a result of tending to a friend in need. Examples of his kindness, I promise you, can fill pages.

A friend of mine was unable to buy a van for her disabled son. James purchased a used van so the vehicle could be made wheelchair accessible in order to transport their son to various ventures. No, James did not know her personally, but knew the situation and wanted to help make this family's life a bit easier; given the unexpected curve ball that life threw at them.

James is constantly giving assistance to people with drug related problems and finds them the resources that they need. He opened his home to a young man with a drug addiction when his family closed their doors. He had made arrangements for him to go to a rehabilitation center and needless to say, no good deed goes unpunished- my son was robbed of his valuables and the person was to never to be seen

again.

These are just a few instances of the good deeds my son has done. He has a heart of gold and truly finds happiness in helping others—a personal trait that is rarely found these days. He is different—he is caring, he is kind and does so much good for so many people. I implore you to read the letters that family, friends and acquaintances have sent in his defense.

If you would like to contact me for any reason, please feel free. My home phone is 1-718-892-7649 and my e-mail is [bronxredhed@yahoo.com](mailto:bronxredhed@yahoo.com)

Thank you for taking the time from your busy schedule to read my plea.

Respectfully,

  
Lorraine Bernardone

*Duplicate*

November 13, 2013

My name is Beth Bernardone and I'm a cousin-in-law of Mr. James Bernardone. I have known James for 30 years; he has been a supportive and loving cousin and friend to me and my three sons. Mr. Bernardone has always taken a genuine interest in how my sons have been doing whether it is specific towards their educational, social, emotional and/or developmental needs.

I believe that what James has involved himself in does not reflect the true person he is. I also know that he is a person who loves with all his heart. He is a person who was raised in a family with values and strong convictions. He comes from a hard working, loving and close knit family who would be heartbroken if his lack of judgment alters his potential and motivation for change.

With that being said, I would like for you to know a little about the person writing to you. I'm a person who has not taken this responsibility lightly. I stand by everything I do and say in all aspects of my life. I believe in truth, honesty and change. Therefore, when I say that James is a loving and caring person, I say so knowing that if given the chance to prove himself and make right by his past judgment your decision for leniency will not be in vain.

Thank you for your time and consideration.

Respectfully,

*Beth Bernardone.*

Beth Bernardone

Ann Bernardone  
600 Bedford Rd  
Pleasantville, NY 10570

November 15, 2013

To Whom It May Concern:

I am writing this letter as a character witness for James Bernardone.

I have known Mr. Bernardone all my life as he is my cousin. Even though I may be slightly biased as to him being a member of my family I believe I am a good judge of character and my reference should be considered fairly.

Jamie has good moral character and comes from a strong family where hard work, integrity, and doing well towards others has always been our beliefs. Jamie has always been there for me and his family in good times and bad. He always looks to help and takes a proactive approach in dealing with any situation. About 7 years ago my brother was killed in a tragic accident. As you can imagine this both stunned and shocked the entire family. Growing up in such a close knit family Jamie did not even think about how he would help. He instantly stepped up and become a brother figure to myself and my sister and continues to be till this day.

Jamie has many friends; he is quite well respected and liked by all who know him. Jamie is kind, generous, and always puts a smile on your face.

I hope you will give serious consideration to the character of Mr. Bernardone, which I have expressed in this letter.

Thank you.

Sincerely,

*Ann Bernardone*

Ann Bernardone



*Duplicate*

Nicole Bernardone

115 Lake Shore Dr, Pleasantville, NY 10570

914-462-1982

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November 13, 2013

To Whom it May Concern:

RE: James Bernardone

I have known James Bernardone for 41 years as he is my cousin through my father's side of the family.

I can confirm that he is a man of great integrity, is extremely dedicated to his family and work.

Growing up he always had a fun loving attitude and was and still is very entertaining. He knows how to make you smile when you're feeling down. He is considered an Uncle by my four children and has always been a positive role model for my boys. If you need help James Bernardone will be there to support you.

For your information, I am the Childcare Director for the Family YMCA at Tarrytown where we strive to teach young children to be Caring, Honest, Respectful and Responsible. Four character values that I see in James Bernardone.

Yours Faithfully,

Nicole Bernardone

*Theresa*  
Theresa Garafolo  
175 Route 216  
Stormville, NY 12582  
November 3, 2013

Honorable Nicholas Garaufis  
U.S. District Court Eastern District  
United States Courthouse 225 Cadman Plaza East  
Brooklyn, NY 11201

Your Honor:

I am sending you this letter on behalf of James Bernardone. My name is Theresa Garafolo and am a retired lady of 69 years and have been an extremely close friend of the Bernardones for 25 years; so much so that I am referred to by James and his sister as "Aunt Terrie".

James is extremely close to his family and loves them dearly. He is the only person I know that would take the shirt off his back to help someone. He has been there for me so many times, including lending me his apartment when I had no place to go. He was a huge help to me when I lost my job, giving me confidence, encouragement, direction and assistance.

I understand that James is having some legal problems right now, and I ask your Honor and the court's mercy in considering leniency. He is a good and decent person.

Thank you for taking the time to read my letter and I hope and pray that you will give James full consideration.

Respectfully,

Theresa Garafolo

January 12, 2014

The Honorable Nicholas Garaufis  
Eastern District of New York  
US District Court  
225 Cadman Plaza East  
Room 1416 S  
Brooklyn, NY 11201

Dear Honorable Nicholas Garaufis,

I have had the pleasure of knowing Jamie Bernardone for 19 years. I met Jamie when I was 10 years old and I had just arrived to the United States from the Dominican Republic. As a young girl who did not speak much English and struggled with cultural identity, Jamie helped me find my way by teaching me about his heritage and helped me get accustomed to the yearly holidays and traditions within the family.

As I became a part of the Bernardone family, I got to know Jamie in various capacities. I have always been able to count on Jamie for moral and emotional support. I have known him to be a family orientated man and one who puts others before him. His kindness is unparalleled, and his commitment to family is reflected specially during the holidays, as Jamie is usually our source of laughter, as he enjoys telling jokes and pulling pranks on everyone.

As you can see, Jamie is a very important person in my life and in lives of our family. As Jamie experiences this rough chapter in his life, I was honored to be able to write this letter in support of the wonderful person he is as a family member and as a friend.

Thank you in advance for your consideration.

Sincerely,

Esperanza Estrella

A handwritten signature in black ink, appearing to read 'E Estrella', written in a cursive style.

ATTORNEYS AT LAW

One Whitehall Street  
17th Floor  
New York, NY 10004  
(212) 962-8020  
www.julienandschlesinger.com

November 7, 2013

**Fax No. : 718-613-2330 and  
Mail**

Honorable Nicholas G. Garaufis  
United States District Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

**RE: CASE NO. : 1:12-cr-00264**

Dear Judge Garaufis:

This letter is written in support of James Bernardone.

Having to write this because of the legal and the public problems confronting Jamie is most difficult. On the other hand, it is not difficult to discuss my relationship, knowledge and character of Jamie, all of which I hold in the highest regard.

I came to meet Jamie more than seven years ago on a professional basis when he retained my firm, Julien & Schlesinger, P.C., to represent him in a personal injury action. This mutual respect which was evident throughout this professional experience evolved into a personal and lasting friendship.

Throughout our personal relationship, Jamie has consistently demonstrated good character and a willingness to lend his support and help for any personal or family concern. Most recently, in our discussions of a family medical problem, Jamie routinely called to assist with recommending appropriate physicians and to simply offer his support and friendship.

I have never experienced anything negative that would affect my feelings of admiration and respect for Jamie. Jamie remains and will always be a valued friend.

Respectfully,

  
Stuart A. Schlesinger

SAS/ze

November 3, 2013

To The Honorable Nicholas Garaufis,

I am writing on behalf of Mr. Jamie Bernadone, a task currently producing thoughts of respect, feelings of warmth and concern and, simultaneously, significant hesitation and ambiguity. I do not envy your body of work, nor your role in Jamie's life. I can only imagine wrestling with the question, "Am I dealing with a bad person or a person who may have done bad things?", as you consider everything before you. If I can provide any additional context, it is an opportunity I take seriously and to heart.

My relationship with Mr. Bernadone spans over seventeen years though is limited in terms of direct contact. His mother, Lorraine, one of my best friends, is responsible for initiating most of the time Jamie and I have spent together. I have known him to be a person capable of much empathy, yet lacking in self-confidence and self-awareness, thus leaving him vulnerable to poor decisions and life-choices. In no way do I mean to present Jamie as a victim. That said, and with no knowledge of his particular circumstances, I would be surprised to learn of Jamie acting with malice and intentionally hurting anyone.

The one professional interaction in our history includes his contacting me after an act of violence at one of the organizations he represented in his job function. He was clearly shaken by the occurrence and asked if I would meet with the staff and conduct a number of Workplace Violence seminars, which I was pleased to do. Jamie was on-site and intense as he spoke about the event and his

intention to help keep anything like it from ever happening again. It was clear he had the respect of his members.

As a licensed Social Worker and Nursing Home Administrator in the state of New York, I too find myself wrestling with the question noted above. I thought long and hard before putting my name to this letter, aware of the inherent risk to reputation involved. I believe in the values I know were instilled in him as a young person and in his potential to make positive contributions to others. I know his family is at the ready to support him moving forward. I appreciate your taking the time to consider my thoughts and hope Jamie, given the opportunity, lives up to them over time.

Respectfully,

Daniel J. Monahan, LMSW, LNHA